



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

February 4, 1970

REDACTED TEXT

Dear Mr. REDACTED TEXT:

This is with reference to the petition of "J" and the hearing held on the matter last January 15 in San Francisco.

"J" has been held liable for sales tax on the retail sale of machinery, fixtures, equipment, etc., which was the subject of a repossession and sale by "N".

The property was mortgaged by "J" under a chattel mortgage security agreement executed with "N". "J" had no voice in the sale and did not locate the buyer, "U".

It is our opinion that there was no sale by "J" to "U" directly or indirectly, as "N" was not an agent of "J".

If a sale theory has any merit at all, which we reject, it has to be based on a sale by "J" to "N" for resale. There is no doubt about the fact that "N" did sell the property to "U". Thus, even under a sale theory, "J" would not be liable for sales tax, since the property was resold by "N".

Accordingly, we are recommending that the petition of "J" be granted and the determination against "J" be cancelled.

Very truly yours,

Robert H. Anderson
Tax Counsel

RHA/vs [lb]